

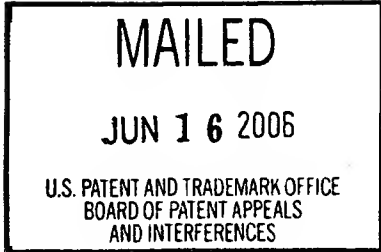
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DONALD T. SHANNON

Application No. 09/997,829

ADMINISTRATIVE REMAND TO EXAMINER



This application was received back into the Board of Patent Appeals and Interferences (BPAI) on May 16, 2006 after being returned to the examiner for consideration of a nonconsidered information disclosure statement and to acquire a supplemental appeal brief in full compliance with 37 CFR 41.37. An appeal number was assigned (2006-2093) and a docketing notice was mailed on June 5, 2006. However a second review of the application reveals a discrepancy that was overlooked prior to docketing. Therefore, the application is herewith being remanded to the examiner to correct the discrepancy. The matter requiring attention follows.

As per the undocketed return from the BPAI, appellant filed a Supplemental Appeal Brief on October 6, 2005. In response to the new brief, the examiner mailed a second Examiner's Answer on January 4, 2006. The new Examiner's Answer does not list the prior art of record being relied upon in the rejections. On page 3 of the answer,

under the heading “**(8) Evidence relied upon**” the examiner states that “[n]o evidence is relied upon by the examiner in the rejection of the claims under appeal.”

The Manual Of Patent Examining Procedure (MPEP) § 1207.02(A) (8th ed., Rev. 3, August 2005) states in part:

(A) CONTENT REQUIREMENTS FOR EXAMINER'S ANSWER. The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

...

(8) *Evidence Relied Upon*. A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and, in the case of nonpatent references, the relevant page or pages.

Since the examiner's § 103(a) rejections are based on prior art patents, the references should be listed under the Evidence Relied Upon heading in the examiner's answer.

Correction is required.

Accordingly, it is

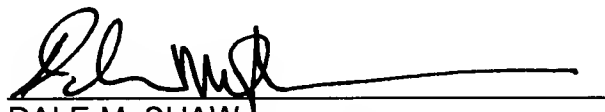
ORDERED that the application is remanded to the Examiner to issue a revised Examiner's Answer

Application 09/997,829

- a) listing the prior art of record being relied upon by the examiner in the rejection of the appealed claims under the Evidence Relied Upon heading, and
- b) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By:

A handwritten signature in black ink, appearing to read 'D. Shaw', is written over a horizontal line.

DALE M. SHAW
Deputy Chief Appeal Administrator
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DMS/vsh

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